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IN THE

Supreme Court of the United States

October Term, 1970

NO. 982

HOUSTON INDEPENDENT SCHOOL DISTRICT, ET AL., *Petitioners,*

v.

UNITED STATES OF AMERICA, *Intervenor-Respondent,*

v.

DELORES ROSS, ET AL., *Plaintiffs-Respondents*

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

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Petitioners pray that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Fifth Circuit, entered in the above entitled case on August 25, 1970.

OPINIONS BELOW[1]

The opinions of the courts below directly preceding this are as follows:

1. Transcribed bench remarks of Honorable Ben C. Connally, District Judge of July 23, 1969, following the evidentiary hearing of July 14-23, 1969 [unpublished] (Appendix A);
2. Memorandum and order of District Court of May 30, 1970 [as yet unpublished] (Appendix B);
3. Opinion of Court of Appeals of August 25, 1970 [as yet unpublished] (Appendix C).

JURISDICTION

The judgment of the Court of Appeals was entered on August 25, 1970. No motions for rehearing were presented by any party. The jurisdiction of the Court is invoked under 28 U.S.C. Section 1254(1).

QUESTIONS PRESENTED

1. Whether, in this school desegregation case involving the nation's sixth largest school district and the largest yet to be brought under a federal court order, the Court of Appeals erred in ordering racial assignments resulting in the pairing of certain elementary schools merely to achieve statistical integration.

2. Whether "pairing" of schools is appropriate without any expert proof or hearing as to the nature of the desegregation accomplished, the extent of desegregation, and the effect of desegregation from an administrative and educational standpoint.

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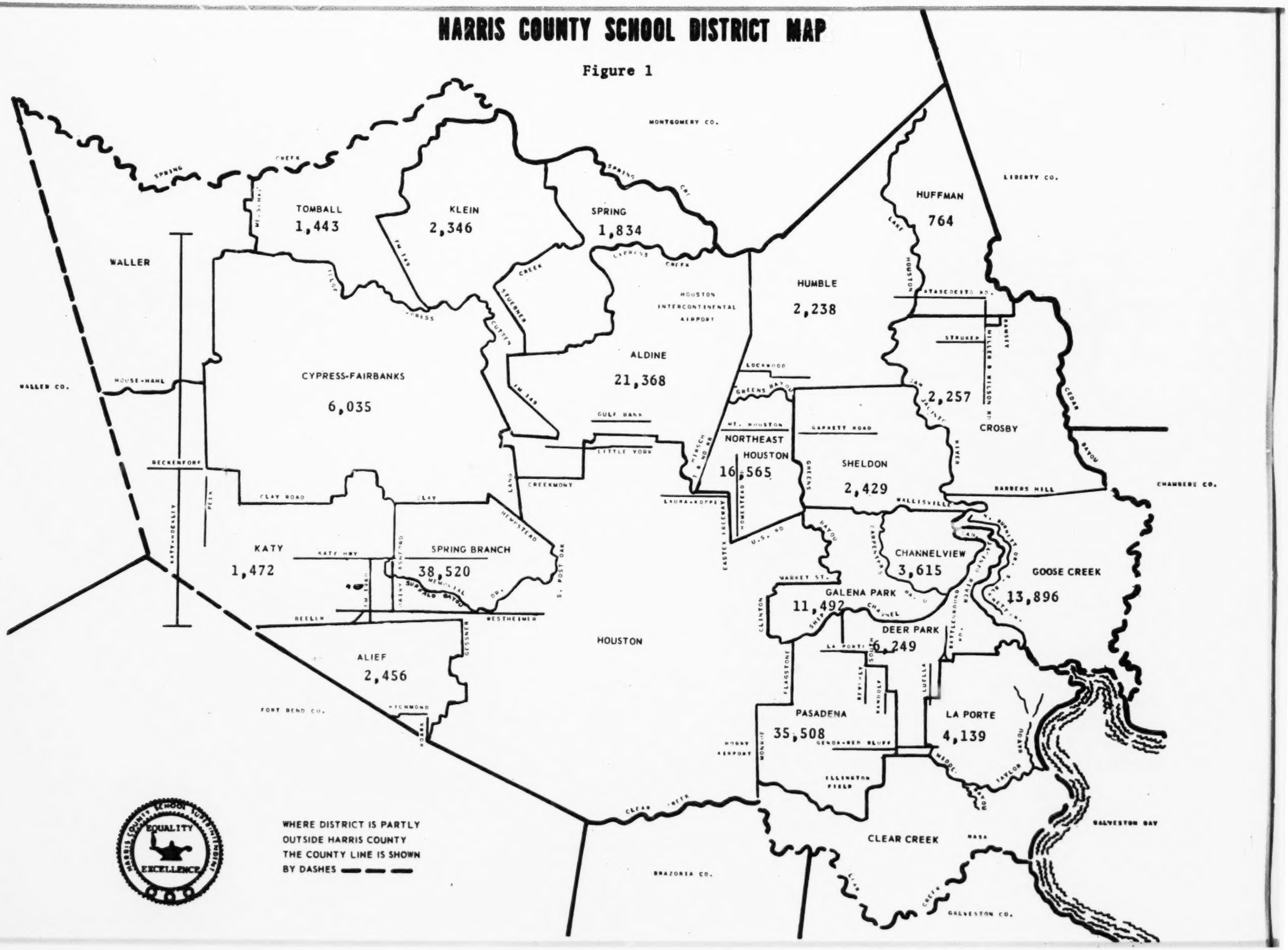
1. Because they are voluminous the appendix of opinions is printed separately.

HARRIS COUNTY SCHOOL DISTRICT MAP

Figure 1



3. Whether the Court of Appeals erred in partially rejecting the finding of the District Court adopting an "Equidistant Plan," patterned after the decision of the same Court in *Ellis v. Board of Education of Orange County, Florida,* 423 F.2d 203 (February 17, 1970), as urged in the dissenting Opinion.

CONSTITUTIONAL PROVISIONS INVOLVED

This case involves the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the Constitution of the United States.

STATEMENT

The Houston Independent School District is the sixth largest school system in the United States. The student enrollment in the 1969-70 school year was 241,154, of which almost two-thirds were white and one-third black. Of this number of "white" scholastics approximately thirty-six thousand (36,000) were Spanish surnamed Americans. (See Dissenting Opinion of Judge Clark, Appendix C.) These Spanish surnamed American scholastics have been historically considered as Caucasian or white in the District, a fact heretofore recognized by all parties to this cause.

The District covers approximately 311 square miles, and its boundaries generally coincide with the City Limits of Houston. There are nineteen (19) other independent school districts within Harris County, Texas with an approximate enrollment of one hundred and seventy-five thousand (175,000) students. (See figure 1) As can be seen from the location of the other school districts, many of the centers of such districts are closer to the downtown Houston area than portions of the Houston District itself.

On September 5, 1967, the District Court, following a hearing, ordered the Houston District to utilize a Jefferson-type "freedom of choice" plan based upon the requirements of *United States v. Jefferson County Board of Education,* 372 F.2d 836, 890-92 (5 Cir. 1966). The system has operated under that plan until the commencement of the 1970-1971 school year.

In July of 1969, pursuant to a Motion for Further Relief by the Plaintiffs-Respondents and the United States of America, which had intervened, an extensive hearing was held, following which the District Judge concluded that the "freedom of choice" plan then being utilized by the District did not achieve a sufficiently high degree of desegregation to be acceptable under the decisions of the Court of Appeals for the Fifth Circuit, and that the District should submit for his consideration a "complete zoning and/or pairing" plan by January 1, 1970. (See Appendix A)

Following that time, the school board, as it was then constituted, resubmitted a "freedom of choice" plan, and a zoning plan. In November of 1969 a District-wide referendum poll was taken, the results of which reflected overwhelming support for a "freedom of choice" plan. Only three (3) of the thirty-seven (37) predominantly black boxes voted against continuation under the "freedom of choice" plan. (See the District's submission of January 1, 1970.)

At the hearing of July 14-23, 1969, the Plaintiffs-Respondents submitted a pupil assignment plan with five (5) large zones to reach a result that no school hopefully, would have more than fifty per cent (50%) black

enrollment within the entire District. It was prepared by persons not familiar with the District, its transportation routes, or other administrative problems. It contemplated massive bussing and cross-bussing of students to achieve student racial balance. While Plaintiffs did not seek equal student racial balance at the time they presented their plan to the District Court because of the obviously prohibitive costs, when the matter was pending before the Court of Appeals they did suggest the adoption of a plan seeking equal student balance in each of the schools within the district. (See page 10 of Plaintiffs-Respondents Brief.)

The Government-Intervenor, after the hearing of July 14-23, 1969, offered a "partial plan" prepared by an expert witness from the Florida Desegregation Center, Dr. Michael Stolee. His plan was admittedly incomplete, and he was not further called as a witness by the Government during the hearings held in the Spring of 1970. However, following the hearing in July of 1969, the District Court suggested that the School District consult with the Texas Educational Desegregation Technical Assistance Center (TEDTAC), an agency connected with the University of Texas, but funded under Title IV of the Civil Rights Act of 1964, to assist the District in devising a zoning and/or pairing plan. (Appendix A) The co-operation of this agency left much to be desired, and subsequently, when the District learned that, rather than assisting, it was devising a plan to satisfy the Department of Health, Education and Welfare, it disavowed the adoption of any portion of the TEDTAC plan. (See the District's Submission of March 2, 1970)

Based upon two recent decisions of the Court of Appeals for the Fifth Circuit in Bibb County, Georgia, and Orlando, Florida, *Bivins v. Bibb County Board of Education,* ____ F.2d ____ (5 Cir. 1970); *Ellis v. Orange County School District,* 423 F.2d 203 (5 Cir. 1970) on March 2, 1970, the Houston Independent School District submitted two additional plans for the consideration of the trial Court. One of these was a "geographic capacity zoning plan" prepared in substantial accordance with the *Bivins* decision, and the other was an "equi-distant zoning" plan prepared pursuant to the holding in the *Orange County* case with appropriate modification to deal with special capacity problems in the Houston District.

After additional hearings held on April 6 and May 11, 1970, and the consideration of the entire record, the District Judge adopted an "equi-distant" plan for the Houston District, and rejected the "freedom of choice" plan also proposed, although recognizing that it had been "administered fairly and completely without discrimination by defendant District for several years." (See Appendix B). He also rejected the two other zoning plans of the District, primarily upon the grounds that if human discretion is involved in the drawing of school zones, it can always be demonstrated that a greater degree of desegregation can be accomplished by gerrymandering for that purpose irrespective of the educational and administrative disadvantages. (See Appendix B). The District Court then found as a fact that an equi-distant zoning plan, such as proposed by the board on March 2, 1970, was the best plan for the system from an educational and administrative standpoint. He refused to order the "pairing" of schools to accomplish further desegregation, *and there was no ex-*

pert proof before him regarding the administrative or educational advantages of pairing.[2]

Following his decision the Plaintiffs-Respondents and the government gave notice of appeal to the Court of Appeals. The Fifth Circuit ordered the adoption of the District's geographic zoning capacity plan of March 2, 1970 for secondary school levels, in that it accomplished a slightly higher degree of desegregation than did the equi-distant plan, and accepted the equi-distant plan at the elementary level, except that it ordered eleven (11) pairings and the rezoning of another predominantly black school with a predominantly white school. This entire action was taken

(1) without any supporting expert proof as to the feasibility or desirability of such pairings, and

(2) upon the Court's own initiative without any consideration being given to the framework of relief sought by any party to the cause.

The pairings were ordered notwithstanding the objections of Petitioner to any pairings, and particularly with respect to pairings of economically disadvantaged chidren. Because

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2. The trial Court had expressed displeasure with the "pairing concept during the July 1969 hearing." He stated that it "did not make sense" to him to have the children congregate at the "nearest school" and then be transported to the assigned school (Tr. 829). He was not without expert support. Dr. Stolee, the Government's primary trial expert, stated he had encountered "varying degrees of unsuccess with pairing" (Tr. 919). Dr. Baines, a District witness, criticized "pairing" of children with different socio-economic backgrounds as being "educationally unsound" (Tr. 1050), and that under-achievers of all races will find ways to miss the bus (Tr. 1054). Drs. North and Kennedy pointed out the administrative difficulties with "pairing." (Dep. North. 17-18).

the order of the Court of Appeals was not based upon administrative or educational feasibility, considerable community disruption has resulted and full compliance with this aspect of the decision has still not been obtained.[3]

The Court ordered the pairing of the following elementary schools:

Atherton	pair with Eliot and Scroggins
Bruce	pair with Anson Jones
Burrus	pair with Roosevelt
Crawford	pair with Sherman
Dodson	pair with Lantrip
J.W. Jones	pair with Fannin
N.Q. Henderson	pair with Pugh
Pleasantville	pair with Port Houston
Ross	pair with Ryan and Looscan
Rhoads	pair with Frost
Sanderson	pair with Easter and/or Chatam

Of the fourteen (14) schools ordered to be paired with substantially all-black schools, seven (7) are predominantly composed of Spanish surnamed American students. These "pairings" result from the contiguity of the residential areas of Spanish surnamed Americans to substantially all-black residential areas. While it is of course a fact that Spanish surnamed Americans have not been causally zoned into these residential areas under a dual school system, such as is alleged by the Plaintiffs-Re-

3. It would appear that neither of Respondents would seek to uphold this portion of the decree of the Court of Appeals. Moreover, a number of Mexican-Americans have sought to intervene as a class to enjoin and prevent the proposed pairings.

spondents with respect to formerly all black schools, nonetheless, the pairing of the two groups has many educational ramifications and difficulties.

In the District Court, Petitioners opposed pairings not just for constitutional and adminstrative reasons, but because pairings of blacks and Spanish surnamed Americans is not always educationally sound. (See North and Kennedy Depositions, page 32) Moreover, while the intervenor, United States of America, adopted the TED-TAC proposal shortly before the decision of the District Court, and in which one hundred one (101) elementary schools were either paired or grouped, the eleven (11) pairings ordered by the Circuit Court did not correspond except in one particular with that claim for relief.

To further illustrate the patent error of the Court of Appeals in ordering these pairings on its own initiative, without supporting evidence or proof, the order even commanded the pairing of some predominantly black schools, with other predominantly black schools, thus accomplishing no additional desegregation. The only effect of what it did in that respect was to dilute the limited percentage of whites attending the schools that would be paired. For example, Ross Elementary was ninety-four per cent (94%) black, and Ryan is seventy-nine and five-tenths per cent (79.5%) black, and Looscan is one and four-tenth per cent (1.4) black. Also, Sanderson, Easter and Chatham, are all predominantly black schools. True, Chatham had more than ten per cent (10%) whites, but pairing it with two all-black schools will dilute all three schools to a level below the ten per cent (10%) integration factor sought by the Court of Appeals and the District Court.

In addition to the disruptive effect of these pairings ordered without supporting expert proof, but done solely to accomplish statistical integration, the bilingual program adopted by the District under Title VII is enervated by the pairings in Looscan, Sherman, and Anson Jones Elementary Schools.

Even if "pairing", with its attendant educational and disruptive effects, is once again affirmed as a viable tool to desegregate in the *Charlotte-Mecklenburg* (O.T. 1970, Nos. 281,349), and *Mobile*) (O.T. 1970, No. 436), cases, it should not be adapted without evidentiary support as to workability or feasibility, or that it would assist in establishing a unitary system.

REASONS FOR GRANTING THE WRIT

I.

The Court of Appeals erred in ordering pairing on its own initiative merely to accomplish statistical integration.

Indisputably, the Court of Appeals ordered the "pairing" of the various elementary schools enumerated without any proof, regarding the nature, extent, or effect of its actions, and solely upon its own initiative. Nor were the "pairings" within the reach of any of the prayers or motions for relief of any of the parties. Both Respondents have publicly disapproved the result of these "pairings." Not even elementary due process was accorded the parties. While school desegregation cases have become a breed apart, at least some semblance of the forms of action must remain.

On the "Equal Protection Clause" aspects of the case, Petitioners assert, as do the Districts in O.T. 1970, Nos. 281, 349, 436, that students cannot be assigned to non-neighborhood schools on a racial basis merely to overcome previously existing racial imbalances, and that, because of the distances involved, the "bussing" of students that will be required because of the "pairing" order is violative of the inhibitions imposed upon all courts under the Civil Rights Act of 1964. Because of the forcefulness of those presentations in these other causes, which were submitted on October 12 through 14, 1970, the energies of the Court will not be further claimed by a less exhaustive treatment of these questions at this time.

Nor does this District ask that the cause be *remanded* for the development of testimony concerning "pairing"; rather, the District requests an affirmance of the District Court's order as it applied to the elementary schools.

II.

"Pairing" without proof is not a permissible substitute for contrary fact determinations by the trial Court.

The only workable "plans" for student desegregation placed before either of the Courts below were those set forth in Petitioners' submission of March 2, 1970. All others, save the so-called TEDTAC "plan", were admittedly incomplete and/or not subject to implementation for the 1970-71 school year. Even the TEDTAC proposals, which the trial Court erroneously permitted the government to adopt as its "plan" on May 11, 1970, without any evidentiary hearing or supporting proof, was not

utilized by the Court of Appeals in ordering the "pairings".

Although the Court has treated this type of case in the nature of an equity-type proceeding, there is nothing to be found in any of its previous pronouncements authorizing the substitution of pure judicial polemics for fact-findings of a trial court, particularly where to do so flaunts sound educational goals. As the dissenting judge succinctly observed:

> "There is only one answer. It is rapidly becoming apparent that despite expressed disclaimers [*See* Singleton v. Jackson Municipal Separate School District, ____F.2d____, 5 Cir., 1970 (No. 29,226, August 12, 1970) (Footnote 5, slip opinion page 4)], the special school case panels of this Circuit are now out ahead of the requirements laid down by the Supreme Court and have adopted *sub silento* some unmentionable standard of numerical pupil racial balance to govern the affirmance or reversal of school case decisions. For the good of the schools and pupils of this Circuit, I for one do not understand why the magic figures must remain a mystery enshrouded in nebulous phrasing that says that the plan adopted is ineffective or unacceptable."

That some sanctity must attach to the work of the federal courts of original jurisdiction is self-evident; otherwise, nothing of substantial value can be contributed to the unraveling of this complex and oftimes emotional problem by the arm of the federal judiciary closest to it.

It was not until the August 12 decision in the *Singleton* case that the Fifth Circuit began to wholly initiate or originate "plans" without evidentiary support or based upon testimony adduced under the auspices of the district courts.

Prior to that time the Fifth Circuit shied away from such intercessions, No. 29,521, *Carr v. Montgomery County Board of Education,* ____F.2d____ (June 29, 1970); No. 29,425, *Carolyn Harvest v. Board of Instruction of Manatee County, Fla.,* ____F.2d____ (June 26, 1970); No. 28,572, *Donald Jerome Thomas v. West Baton Rouge Parish School Board, et al.,* ____F.2d____ (March 4, 1970); No. 29,769, *United States v. Board of Education of Webster County, Georgia,* ____F.2d____ (July 7, 1970), but apparently judicial impatience with the "progress" and "extent" of desegregation has wrought its toll.

This District respectfully urges that neither impatience, nor any other motive, supports the abandonment of the judicial process in the name of pure statistical integration of school systems!

It is noted with more than passing interest that counsel for the Plaintiffs-Respondents (being the same counsel for Petitioners in O.T. 1970, 281 and 349) respect the judicial process in this type of proceeding when it favors their cause. On page 46 of their Petition the following appears:

> *"There is nothing in this development of school desegregation law since Brown which warrants the departure from the traditional rule of appellate review announced by the plurality opinion of Judge Butzner for the court below* * * *."

Again, in the same Petition, opposing counsel states:

> "The district court's decision that the Finger Plan is feasible is in any event supported by substantial evidence. *It was error for the court of appeals to substitute its own finding of "unreasonableness" where*

> *there was no claim that the district court's findings were clearly erroneous.* Cf. *Northcross v. Board of Education,* 397 U.S. 232, 235 (1970)." (Emphasis added)

In sum, Petitioner urges the Court of Appeals erred in "substituting" its judgment for that of the Trial Court, particularly with respect to the "pairings" which are without any evidentiary support in the record.

III.

The "Equi-distant Plan" (or the alternatively presented "Geographic Capacity Plan") was the only complete plan and workable plan before the Court.

Petitioner is not attacking the order of the Court of Appeals adopting the geographic zoning capacity plan at the secondary school level, not only because of its greater administrative flexibility, but because it was ordered to implement the decision only six (6) days before the opening of the schools. Interterm transfers to comply with the adoption of an equi-distant plan for the entire District would now be additionally disruptive in this school system.

At the elementary level, because of the more limited geographic areas involved, a proximity plan, with appropriate majority-to-minority transfer provisions, offers one of the only potential plans to integrate a metropolitan school system.[4] This was recognized in the District Court,

---

4. Under present economic limitations facing urban school systems, it is doubtful whether any "plan" predicated upon *forced integration* will work for substantial periods of time, particularly in those districts — such as the Houston District — surrounded with numerous

but disregarded in the Court of Appeals purely to establish statistical integration.

"bedroom districts." Figure 2 graphically illustrates this truism. Except for the Northeast Houston and Crosby Districts, no other District in the County has as much as 20 per cent black student population. These recent figures can be supplied under a supplemental transcript if any question is raised concerning their verity. The Court will also note that the Galena Park and Crosby systems do not show an increase in student population. Not only does Galena Park have the next highest concentration of black student population, but it, like Houston and Crosby, is under integration order.

FIGURE 2

MEMBERSHIP COMPARISON OF
HARRIS COUNTY SCHOOL DISTRICTS
1969-70 — 1970-71

School Districts	1970-71	Spring 1969
Aldine	24,736	20,365
Alief	3,380	1,547
Channelview	3,547	3,249
Crosby	1,967	2,103
Cypress-Fairbanks	6,974	5,368
Deer Park	6,729	6,328
Galena Park	11,982	11,662
Goose Creek	14,270	12,976
Houston	241,154	245,396
Huffman	906	543
Humble	2,631	2,227
Katy	1,580	1,480
Klein	2,603	1,775
LaPorte	4,451	3,934
Northeast Houston	15,545	15,138
Pasadena	35,654	33,656
Sheldon	2,795	2,349
Spring	2,292	1,260
Spring Branch	39,774	35,734
Tomball	1,622	1,399

First Reporting Period
Research Department
November 10, 1970

Judge Clark, in his dissent, put the matter thusly:

> "Additionally, I would not reverse because the District Court relied upon valid precedent still viable in this Circuit, Ellis v. Board of Public Instruction of Orange County, Florida, 423 F.2d 203 (5 Cir., 1970). The District Court did not adopt the *Orange County* plan on the basis that it was some sort of talisman with universal therapeutic qualities for merging all school district student bodies. Rather, as the majority states, the trial court analyzed the general geographic and student and teacher racial compositions of the Orange County and Houston Districts and found them to be legally comparable. Yet, the majority opinion rejects the use of this plan for Houston while it in no way demonstrates an efficient legal distinction between the Houston and Orange County School Districts. Certainly the mere fact that *Orange County* denominated the requirement that a child attend the school closest to his home as a neighborhood school system and the District Court in the case *sub judice* labeled the same plan and equi-distant zoning plan, is not controlling. That is the difference between tweedledum and tweedledee, which is no difference at all. Why can *Orange County* still exist as the law of this Circuit applicable to that county, to Tuscaloosa and Anniston, Alabama [*See* Lee v. Macon County, ____F.2d____, 5 Cir., 1970 [No. 29,584, July 14, 1970]], and to Fulton County, Georgia, a suburb of Atlanta [*See* Hightower v. West, ____F.2d____, 5 Cir., 1970 [No. 29,933, July 14, 1970], but not in Houston, Texas? I assert it is not, as the majority suggests, because of the continued existence of all Negro or virtually all Negro schools. The opinion in *Orange County* expressly states that it left three schools projected to have all Negro student bodies and it intimated that other Negro students would be attending other

> virtually all Negro schools. In Fulton County, *Hightower* stated it intended to leave one school all Negro, one school 98% Negro and two other schools in excess of 87% Negro. *See also* Mannings v. Board of Public Instruction of Hillsborough County, Florida, ____F.2d____, 5 Cir., 1970 [No. 28,643, May 11, 1970]."

That the determination and the adoption of a "plan" as a viable and workable method of establishing a unitary system constitutes a "fact-finding" that should not be set aside in the absence of a showing of an abuse of discretion, or that the "plan" is totally unworkable, is again borne out by the arguments of counsel for the *Swann* group in O. T. 1970, No. 281. Discussing the equitable nature of these cases, counsel eloquently argued that:

> "The elementary plan ought to be upheld if the case is governed by the traditional rule for appellate review of a chancellor's decree in equity. The prevailing rule is that equitable discretion in framing remedies is necessarily broad and that a strong showing of abuse of discretion must be made to reverse such a decree. *United States v. W. T. Grant Co.*, 345 U.S. 629 (1953); *Continental Illinois Nat. Bank & Trust Co. v. Chicago R. I. & P. Co.*, 294 U.S. 648, 677 (1935); *United States v. Corrick*, 298 U.S. 435 (1936); *Rogers v. Hill*, 289 U.S. 582 (1933). In order to set aside the equity decree the appellant "must demonstrate that there was no reasonable basis for the district judge's decision," and thus that the remedy is so lacking in rationality as to amount to an abuse of discretion. *United States v. W. T. Grant Co., supra*, 345 U.S. at 634.
>
> "This Court's decisions in school cases have relied on traditional equitable principles on remedial issues.

> In the second *Brown* decision the Court invoked the tradition of equity which was said to be "characterized by a practical flexibility in shaping its remedies and by a facility for reconciling public and private needs" (349 U.S. at 300). The *Brown II* Court cited with approval a passage in *Alexander v. Hillman,* 296 U.S. 222, 239 (1935), stating.
>
> > Treating their established forms as flexible, courts of equity may suit proceedings and remedies to the circumstances of cases and formulate them appropriately to safeguard, conveniently to adjudge and properly to enforce substantial rights of all the parties before them." (pages 44-5)

It is quite accurate to say that these remarks were made by counsel in the context of seeking to uphold a "plan" favorable to their cause, but certainly counsel in the present cause (being the same as in *Swann*) would not have the temerity to urge a contrary rule in the present appeal.

The real and only reason for imposing the Court-initiated "pairings" upon this District was to accomplish a higher degree of statistical integration than was reachable under the "plan" adopted by the District Court. The dissent put it more strongly:

> "The true principle that underlies the reversal of the District Court here is that the neighborhood school system ordered for Houston did not achieve that degree of racial balance some of the Judges of this Circuit have declared is "enough" we do nothing but delude ourselves when we adopt such a premise. Like chasing the pot of gold at the end of the rainbow, this reasoning embarks us on a course without an end. Unless someone would be boldly foolish enough to assert that the Courts can deprive school

> district patrons of their freedom, then it follows as the night follows the day that the Courts will never finish litigating such "numbers games" cases."

This District should be permitted to try to resolve its difficulties under the "plan" adopted by the District Court, or the "geographic plan" alternatively urged by it in the Courts below. They are consistent with the "compact zones" concept of *Brown II*, and essentially preserve the "neighborhood school" concept. The patchwork "plan" of the Fifth Circuit — particularly the "pairings" — has and will do nothing towards obtaining the goal of a unitary system with the supposed educational advantages of an integrated system.

CONCLUSION AND PRAYER

The Court of Appeals ordered the pairing of schools in which large groups of economically disadvantaged persons would be interchanged purely for reasons of racial balance. As the dissenting Judge noted, and as the District proved in the Court below, this achieves nothing more than temporary statistical integration. Even more significantly, the potential pairings ordered without expert proof has brought, and will bring about substantial community disruption and interference with the effective operation of the school system.

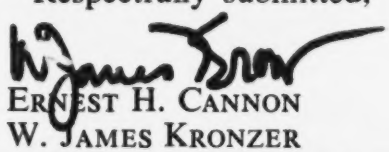
The equi-distant plan perhaps affords the most appropriate opportunity for school systems, such as Houston, to fully establish a unitary system, at least considered with the other elements of a unitary system as announced by this Court in the *Kent County* decision.

Wherefore, this District prays for the following relief:

(1) The pairings be eliminated, and the "equi-distant plan" of the District Court be adopted for the elementary level; or

(2) The Court alternatively adopt Petitioner's "geographic capacity" zone plan for the primary schools without "pairings".

Respectfully submitted,



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CERTIFICATE

The undersigned certifies that on the 18 day of November, A.D. 1970, he did mail, by first class United States mail, three copies of the foregoing Petition and the Appendix of Opinions to counsel hereinbelow named, and that said counsel will be immediately notified of the date of docketing with the Clerk of Court.

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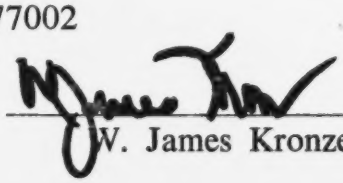

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